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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,082	07/02/2003	Peter Paul Zilla	P-8792.05 Continuation 1	5837

7590 01/10/2006  
Kenneth J. Collier  
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EXAMINER

TRUONG, KEVIN THAO

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/612,082	Applicant(s) ZILLA ET AL.	
	Examiner Kevin T. Truong	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 55-112 is/are pending in the application.
- 4a) Of the above claim(s) 55-102 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 103-112 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/2/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group IV, Claims 103-112 in the reply filed on 11/10/2005 is acknowledged. The traversal is on the ground(s) that the Examiner issued a restriction requirement which were divided into four groups instead of a single group directed to a method of making a prosthesis that was done in the parent application '649 and also the restriction requirement listed each of the groups has the same class and subclass. As a result, that searching all of the Groups does not pose any burden on the Examiner. This is not found persuasive because the restriction requirement, which was issued in the parent application'649, is only distinct between Group I, (apparatus claims) and Group II, (method claims). As a result, Group I, (apparatus claims) were elected for examination. Each of the four groups as claimed would require different modes of operation. As a result of that, it would be a serious burden on the Examiner to conduct search for all four groups as claimed, since each and every one of them has different modes of operation.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 103-112 are rejected under 35 U.S.C. 102(b) as being anticipated by Burnell et al. (U.S. 5,314,925).

Note in col. 2, lines 23-30 and col. 3 and 4, wherein the Burnell et al discloses the method of making a prosthesis (foam graft) which comprising the steps of extruding a thermoplastic elastomer with the aid of physical and chemical blowing agents to produce a foamed graft. Furthermore, wherein the Burnell et al device is inherently capable of making biosynthetic heart valve, sewing ring, stent, and vascular graft.

### ***Conclusion***


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dutta et al. (U.S. 6,702,849) a method of processing porous vascular grafts and stent covers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin T. Truong  
Primary Examiner  
Art Unit 3731

ktt